



City of Albuquerque

Legislative File Number O-06-45 (version 1)

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

Amending Chapter 9, Article 8, ROA 1994, Portions Of The Albuquerque Weed And Anti-Litter Ordinance; Revising The Definition Of Rubbish; Adding New Definitions; Adding A New Section Prohibiting Smoking Tobacco Product Litter; Providing Penalties.

CITY of ALBUQUERQUE SEVENTEENTH COUNCIL

BE IT ORDAINED BY THE COUNCIL, THE GOVERNING BODY OF THE CITY OF ALBUQUERQUE:

Section 1. Section 9-8-3 ROA 1994 is amended to read:

“§ 9-8-3 DEFINITIONS.

For the purpose of this article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AIRCRAFT. Any contrivance now known or hereafter invented used or designated for navigation or for flight in the air. The word "aircraft" shall include helicopters and lighter-than-air dirigibles and balloons.

[+APPROPRIATE PRIVATE RECEPTACLE: A litter receptacle with a fireproof interior capable of containing and withstanding fire. +]

AUTHORIZED PRIVATE RECEPTACLE. A litter storage and collection receptacle as required and authorized in the refuse collection regulations set forth in §§ 9-10-1-1 et seq.

COMMERCIAL HANDBILL. Any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:

- (1) Which advertises for sale any merchandise, product commodity, or thing; or
- (2) Which directs attention to any business or mercantile or commercial establishments or other activity, for the purpose of either directly or indirectly promoting the interest thereof by sales; or
- (3) Which directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged for the purpose of private gain or profit.
- (4) Which, while containing reading matter other than advertising matter, is predominantly and essentially an advertisement, and is distributed or circulated for

advertising purposes, or for the private benefit and gain of any person so engaged as advertiser or distributor.

(5) Newspaper as defined herein is and to be construed to be included within the definition of COMMERCIAL HANDBILL.

GARBAGE. Putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

LITTER. "Garbage," "refuse" and "rubbish" as defined herein and all other waste material which, if thrown or deposited as herein prohibited tends to create a danger to public health, safety and welfare.

MAYOR. The Mayor or his authorized representative.

NEWSPAPER. Any newspaper of general circulation as defined by general law, any newspaper duly entered with the Post Office Department of the United States in accordance with Federal statute or regulation, and any newspaper filed and recorded with any recording officer as provided by general law; and in addition thereto shall mean and include any periodical or current magazine regularly published with not less than four issues per year and sold to the public.

NONCOMMERCIAL HANDBILL. Any printed or written matter, any sample, or device, dodger, circular, leaflet, pamphlet, newspaper, magazine, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature not included in the aforesaid definitions of a commercial handbill or newspaper.

OWNER. Owner, agent, lessee or occupant or person having charge or control of the property.

PARK. A park, reservation, playground, beach, recreation center, zoo, golf course, or any other public area in the city, owned or used by the city and devoted to active or passive recreation.

PERSON. One or more persons, natural persons, corporations, partnerships, associations, joint stock companies, societies and all other entities of any kind capable of being sued.

PRIVATE PREMISES. Any dwelling, house, building, or other structure designed or used either wholly or in part for private residential purposes, whether inhabited or temporary or continuously uninhabited or vacant and shall include any yard, grounds, walk, driveway, porch, steps, vestibule or mailbox belonging or appurtenant or such dwelling, house, building, or other structure.

PUBLIC PLACE. Any and all streets, sidewalks, boulevards, alleys or other public ways and any and all public parks, sources, spaces, grounds and buildings.

REFUSE. All putrescible and nonputrescible solid wastes (except body wastes), including garbage, rubbish, ashes, street cleanings, dead animals, inoperative vehicles and appliances, and solid market and industrial wastes.

RUBBISH. Nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrappings, ~~[-cigarettes-]~~[+ smoking tobacco products+], cardboard, tin cans, yard clippings, wood, glass, bedding, crockery, and similar materials.

[+SMOKING TOBACCO PRODUCT. Tobacco leaves smoked in the form of a cigar or cigarette.+]

VEHICLE. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, including devices used exclusively upon stationary rails or tracks.

WEEDS. All rank, noxious, poisonous, harmful, unhealthful vegetation, deleterious to health, and shall include but is not limited to the following named plants:

- (1) Pigweed (*Amaranthus retroflexus*).
- (2) Russian Thistle (*Salsola pestifer*).
- (3) Ragweeds (*Ambrosia* spp.).
- (4) Lambsquarter. (*Kenopodium* spp.).
- (5) Kochia.
- (6) London Rocket (*Sisymbrium irio*).
- (7) Flix Weed (*Descurainia sophia*).
- (8) Tansy Mustard (*Descurainia pinnata*).
- (9) Spurge.
- (10) Silverleaf Nightshade (*Solanum elaeagnifolium*).
- (11) Puncture Vine.
- (12) Field Bind Weed (*Convolvulus arvensis*).
- (13) Purslane.
- (14) Hoary Cress.
- (15) Yellow Foxtail (*Setaria glauca*).
- (16) Green Foxtail (*Sorghum halepense*).

The Mayor is hereby authorized and delegated the authority and duty to determine if any other plants, due to their unhealthy or dangerous attributes or consequences, should be placed on the list of weeds as defined herein and shall put such plants on said list if, after a hearing based on the evidence before him it appears that such plants do come within the meaning of the term weeds as hereinbefore set out.”

Section 2. Chapter 9, Article 8, ROA 1994 is amended by adding the following new section:

“§ 9-8-32 SMOKING TOBACCO PRODUCT LITTER.

No person shall dispose of any portion of a smoking tobacco product except in public receptacles or in appropriate private receptacles. Any smoking tobacco product previously lit shall be extinguished prior to disposal.”

Section 3. Section 9-8-99 ROA 1994 is amended to read:

“§ 9-8-99 PENALTY.

[+(A)+] Any person who violates any of the provisions of this article[+~~excluding §9-8-32,~~+] shall be deemed guilty of a petty misdemeanor and, upon conviction thereof, shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$150. Any person deemed guilty of a subsequent violation shall be subject to a minimum fine of \$300 and then \$500 for each violation thereafter. Community service may be imposed in lieu of or in addition to any such fine. Every violation shall be a separate misdemeanor.

[+(B) Any person who violates the provisions of § 9-8-32 regarding smoking tobacco product litter shall be subject to the penalty provisions set forth in § 1-1-99 of this code of ordinances to include a minimum fine of \$250. Any person deemed guilty of a subsequent violation of § 9-8-32 shall be subject to a minimum fine of \$500 for each violation thereafter.
+]"

Section 4. SEVERABILITY CLAUSE. If any section, paragraph, sentence, clause, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this ordinance. The Council hereby declares that it would have

passed this ordinance and each section, paragraph, sentence, clause, word or phrase thereof irrespective of any provision being declared unconstitutional or otherwise invalid.

Section 5. COMPILATION. This ordinance shall be incorporated in and made part of the Revised Ordinances of Albuquerque, New Mexico, 1994.

Section 6. EFFECTIVE DATE. This ordinance shall take effect five days after publication by title and general summary.

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